

UNITED STATES DISTRICT COURT

for the
U.S. DISTRICT COURT
District of Maine
PORTLAND, MAINE
RECEIVED AND FILED

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

2017 MAR 24 } P 3: 05

Case No. 2:17-mj-57-JHR

Motorola Cellular Telephone Model # XT1650-01
HP Laptop Computer, SN 5CD4060GJH

DEPUTY CLERK

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Motorola Cellular Telephone Model # XT1650-01 and HP Laptop Computer, SN 5CD4060GJH

located in the _____ District of _____ Maine _____, there is now concealed (identify the person or describe the property to be seized):

Evidence of crime, including the crime of failure to register, such as evidence of residency, i.e. banking records, credit card receipts, photos uploaded with time and date stamp, utility bill information, cellular phone bills, tax information, etc.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
18: 2250a

Failure to Register

Offense Description

The application is based on these facts:
See attached Affidavit of Deputy US Marshal Spencer Christie

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



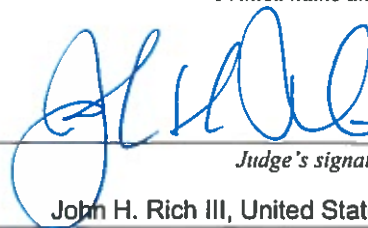
Applicant's signature

Spencer Christie, Deputy US Marshal

Printed name and title

Sworn to before me and signed in my presence.

Date: 3/24/17



Judge's signature

John H. Rich III, United States Magistrate Judge

Printed name and title

City and state: Portland, Maine

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA

v.

Mag. No. 17- mj - 57- JHR

DAVID FORREST NOEL

AFFIDAVIT OF SPENCER CHRISTIE

I, Spencer Christie, being duly sworn, do hereby depose and state:

Introduction

1. This affidavit is made in support of a criminal complaint charging David Forrest NOEL with Failure to Register as a Sex Offender, in violation of Title 18, United States Code, Section 2250(a), an application for orders for cellular telephone information, a search warrant, and an arrest warrant. The facts set forth in this affidavit are based on my personal knowledge, information obtained from others including law enforcement officers, my review of documents related to this investigation and information gained through my training and experience.

Affiant Background

2. I have been employed as a Deputy U.S. Marshal with the United States Marshals Service since April 4, 2011. I attended the United States Basic Deputy Marshal Academy and completed it successfully in 2011. This training was at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. At that academy, I received hundreds of hours of formalized and generalized instruction on fugitive investigation and case management. Portions of this training were geared toward case building and investigation. During my time as a Deputy U.S. Marshal, I have participated in numerous fugitive apprehensions and case investigations. One of my responsibilities is to investigate individuals who are convicted sex offenders and have

failed to register as required by the Sex Offender Registration and Notification Act (“SORNA”), in violation of Title 18, United States Code, Section 2250.

The Sex Offender Registration and Notification Act

3. The applicable “failure to register” statute, Title 18, United States Code, Section 2250, provides in part, “Whoever— (1) is required to register under the Sex Offender Registration and Notification Act; . . . (2)(B) travels in interstate or foreign commerce . . .; and (3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act; shall be fined under this title or imprisoned not more than 10 years, or both.” Section 113 of SORNA, states that a sex offender “shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student.” 42 U.S.C. § 16913(a) (“Registry requirements for sex Offenders”). SORNA further defines the sex offender’s responsibility to keep his/her registration current:

“(c) Keeping Registration Current – A sex offender shall, not later than 3 business days after each change of name, residence, employment or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry” 42 U.S.C. § 16913(c).

Massachusetts Law

4. Massachusetts Code, Title I, Chapter 265, Section 13H – Indecent Assault and Battery on Person 14 or older, states:

Whoever commits an indecent assault and battery on a person who has attained age fourteen shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment for not more than two and one-half years in a jail or house of correction.

Whoever commits an indecent assault and battery on an elder or person with a disability, as defined in section 13K, shall be punished by imprisonment in the state prison for not more than 10 years, or by imprisonment in the house of correction for not more than 2 1/2 years, and whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for not more than 20 years. A prosecution commenced under this paragraph shall not be placed on file nor continued without a finding.

Massachusetts law defines an indecent assault and battery As a touching that is “fundamentally offensive to contemporary moral values” including the touching of the breasts, buttocks, and genitals.

5. Massachusetts Code, Title I, Chapter 265, Section 26C – Enticing a Child Under the Age of 16, states, in part:

- (b) Any one who entices a child under the age of 16, or someone he believes to be a child under the age of 16, to enter, exit or remain within any vehicle, dwelling, building, or other outdoor space with the intent that he or another person will violate section 13B, 13B1/2, 13B3/4, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B of chapter 265 [the sections criminalizing indecent assault, rape, and assault with intent to rape], section 4A, 16, 28, 29, 29A, 29B, 29C, 35A, 53 or 53A of chapter 272, or any offense that has as an element the use or attempted use of force, shall be punished by imprisonment in the state prison for not more than 5 years, or in the house of correction for not more than 2 1/2 years, or by both imprisonment and a fine of not more than \$5,000.

Statement of Probable Cause

6. On October 22, 2010, in Westborough Massachusetts District Court number 1067CR001074, David Forrest NOEL with a date of birth of XX/XX/1977 was convicted of Indecent Assault and Battery on a Person 14 or Over in violation of Massachusetts Criminal Code Chapter 265 Section 13H. The court sentenced NOEL to supervised probation until October 19, 2012. This felony conviction made NOEL a twenty year term sex offender registrant.

7. According to police reports related to the offense, this sex offense was committed against an eighty-two year-old woman who lived near NOEL, in Worcester, Massachusetts, on July 3, 2010. The woman was out for a jog and saw a male party, NOEL, right behind her as she cut through a trail near her residence. The woman confronted NOEL and asked if he was following her. NOEL stated yes, stated she had a nice ass, and pinched her behind. The woman stated she was eighty-two years old and NOEL stated he didn't care and proceeded to follow her back to her residence. The woman stated she noticed NOEL standing in front of her residence and walking around the house "casing the residence," checking out the front and back of it.

8. On July 5, 2010, Sargent Kevin Anderson conducted a recorded interview of NOEL. NOEL waived his Miranda rights and told Anderson among other things that he was obsessed with sex, thought about it all the time, viewed pornography online and engaged in sexual chat online, and he spent time in public spaces eyeing girls and women.

9. On October 22 and 26, 2010, NOEL signed a document entitled "Sex Offender Registration Form." NOEL acknowledged several directives, including the following:

- His duty to notify appropriate authorities of any change of my residential address a minimum of ten (10) days prior to the change.
- A change in residential address includes moving to a different city or town within the Commonwealth, moving within a city or town, moving out of the Commonwealth, or establishing a secondary address.
- His duty to notify appropriate authorities of any changes in employment addresses.

10. In a December 14, 2010, risk evaluation, a Massachusetts Sex Offender Registry Board member commented that NOEL admitted having sex addiction and having sexual thoughts towards minor females but denied any other contact offenses.

11. According to Massachusetts authorities responsible for sex offender registration, NOEL completed his registration process successfully in Massachusetts in December of 2010 and January of 2011.

12. Worcester Massachusetts Police Department reports document that:

- On July 19, 2011, NOEL eyed a 12-year old girl, asked how old she was, said she looked older, and was gorgeous.
- On July 20, 2011, NOEL yelled out to the same 12-year old girl that he was going to fuck the hell out of her.
- On August 8, 2011, NOEL approached an 11-year old girl, asked how old she was, said that she was cute, and asked her if she wanted to come back to his room.

13. On November 14, 2011, the court revoked NOEL's probation in his 2010 conviction for Indecent Assault and sentenced NOEL to 1 year in the House of Corrections.

14. On January 18, 2012, in Worcester District Court number 11626146, NOEL was convicted of Enticing a Child Under the Age of 16 for the incident involving the 11-year old girl that occurred on August 8, 2011. The court sentenced NOEL to 2.5 years with all but 18 months suspended and 4 years' probation.

15. On February 13, 2013, NOEL signed and initialed a document entitled "Massachusetts Sex Offender Registration Notification Form." NOEL acknowledged several directives, including the following:

- His duty to register as a sex offender in accordance with Massachusetts statute.
- His duty to notify appropriate authorities of any change of my residential address a minimum of ten (10) days prior to the change.
- A change in residential address includes moving to a different city or town within the Commonwealth, moving within a city or town, moving out of the Commonwealth, or establishing a secondary address.
- His duty to notify appropriate authorities of any changes in employment addresses.

16. According to Massachusetts authorities responsible for sex offender registration, NOEL completed his registration process successfully in Massachusetts in 2013, 2014, 2015 and on June 15, 2016. In August 2016, NOEL failed to report for a meeting with the Boston Police Department to complete his sex offender registration forms. Due to his absence, a warrant was issued for Failure to Register as a Sex Offender and Probation Violation.

17. Boston Police reports document that on about March 11, 2015, NOEL was charged with Assault with a Dangerous Weapon – Knife for an incident in which he threatened his roommate at a veterans shelter and said that he was going to “stick” his roommate, in the context of a dispute over keeping their room free of bedbugs.

18. In October 2016, Senior Inspector John Solosy of the U.S. Marshals Service received information from Sally Taylor of the Maine State Sex Offender Registry (MSOR) that NOEL may be residing at 47 Pinewood Acres Road, Bowdoin, ME.

19. In October 2016, I learned from an Instagram posting associated with David NOEL, under account “massholemainer”, that NOEL was living in Bowdoin, ME. NOEL posted photos outside his residence, 47 Pinewood Acres Road, Bowdoin, ME, and provided comments to other users that he was living in Bowdoin, ME.

20. According to records provided by Instagram, NOEL registered the profile page for “massholemainer” on November 21, 2013. The phone number associated with the account is 774-239-4184 and has been verified for the user by Instagram.

21. In December 2016, I contacted Mike Gagne, the Fraud Investigator with the Maine Department of Health and Human Services (MDHHS). Gagne stated that NOEL had applied for Maine State benefits in November 2016. Gagne stated NOEL provided an address of

47 Pinewood Acres Road, Bowdoin, ME. Gagne also stated that NOEL does not receive benefits and did not make any further attempts after submitting his application.

22. On November 4, 2016, the United States Post Office in Bowdoinham, ME, confirmed that David NOEL is receiving mail at 47 Pinewood Acres Road, Bowdoin, ME. In December 2016, United States Postal Inspector (USPI) Emily Spera confirmed the same information to me regarding NOEL.

23. 47 Pinewood Acres Road Bowdoin, ME, is a one-level trailer home in a trailer park community. Access to the community is via a one-way road that leads to a cul-de-sac around the neighborhood and exits the same way as the entrance. There are an estimated 25 trailer homes in the community and it appears to be a tight knit community where the individuals who live there are aware of the occupants of the community. Foreign vehicles would be visible immediately if they were sitting idly on the side of the road and not parked at a residence in the community.

24. There is an area adjacent to 47 Pinewood Acres Road where the mailboxes are located for the community. This is the only area that a vehicle could sit and conduct surveillance at the residence, but given the nature of neighbors and community members stopping to get their mail at the mailboxes, surveillance without detection would be nearly impossible to conduct for long periods of time.

25. Cellsite information provides location information about a target's phone and indicates when a target is present at a particular location. Such information would benefit the arresting team as they make entry into the community, make an arrest, and execute a search warrant. If the search warrant is attempted without the target being home, the nature of the

community would make it likely that the target would be notified by neighbors and others and possibly flee the area.

26. Pursuant to a 2703(d) order issued by this Court, I received information regarding the IP address login information for David NOEL and his accounts with Facebook and Instagram. Many of the IP address details showed both dynamic and static IP addresses being connected to a Comcast account, (“2601:184:0:ce7:7426:a169:71d:be43”, “2601:184:0:ce7:f4f6:3697:106:bc5e”, “73.119.105.144”, “73.119.115.144”). As a result of a Grand Jury subpoena issued to Comcast on January 6, 2017, the account details associated with the IP address “73.119.115.144” from December 29, 2016 and December 30, 2016 are as follows:

Subscriber name: David Noel

Service Address: 47 Pinewood Acres Road, Bowdoin, ME 04827-7240

Telephone #: 774-239-4184

Type of Service: High Speed Internet Service

Account #: 8773303140098241

Account Status: Active

IP Assignment: Dynamically Assigned

Email user ID's: 47PinewoodAcres

27. On January 3, 2017, Sally Taylor of the Maine State Sex Offender Registry (MSOR) provided a written statement documenting that David NOEL is required to register as a sex offender and has not made any contact with the Registry.

28. Pursuant to a 2703(d) order issued by this Court, Verizon provided data records regarding the cellular phone number 774-239-4184, the phone number associated with David NOEL through his Facebook and Instagram accounts, and his Comcast account. Verizon

provided call detail records since November 2016, including cell phone tower information and location information, stating the cellular phone associated with the account has been in the Bowdoin, ME, area, since November 2016 at least.

29. During the execution of the search warrant at 47 Pinewood Acres Road Bowdoin, ME, on March 9, 2017, multiple items were seized from the residence, including a Motorola cellular phone and an HP computer laptop. All of these items belong to David NOEL. These items have the ability to access the Internet via cellular data or Wi-Fi capabilities. These items were seized from an area in the residence (back bedroom) belonging to David NOEL or on the person of David NOEL.

30. There is reason to believe the Motorola cellular phone mentioned in the above paragraph has been used by David NOEL at least since November 2016. The cellular phone has the ability to access the internet through WiFi and cellular data capabilities. NOEL has an Instagram account (massholemainer) where he publishes photos of himself, follows other users, and communicates with other users through direct messages. Some of the users that NOEL follows and communicates with through direct messaging appear to this investigator to be under the age of 16. This investigator has researched each user that NOEL has had direct contact with (information obtained through a previous 2703(d) order issued by this Court), and determined that several of the users use profile pictures showing minor females under the age of 16 (ka_tommo, iammax1900, lennonjohtaja, ks.xo_, olyviaduran).

31. Cellular phones utilize cellular data and WiFi capabilities to access the Internet. By accessing the Internet, users of the cellular phone have access to SMS text messaging, Google, Snapchat, Instagram, Facebook, etc. David NOEL has resided in Maine since August 2016 and utilized his cellular phone through data and WiFi (information obtained through a previous

2703(d) order issued by this Court). There is reason to believe a forensic analysis of the Motorola cellular phone will provide further evidence of residency e.g. banking records, credit card receipts, mobile app information, SMS text messaging, etc. Multiple videos have been posted on NOEL's Instagram account (massholemainer) showing the front, back, and driveway of the residence at 47 Pinewood Acres Road Bowdoin, ME. There is reason to believe the cellular phone has other images or videos that detail the residence and would provide a time and date stamp for the photo or video showing NOEL was living in Maine and failed to register as a sex offender.

32. Computer laptops with access to WiFi capabilities can access the Internet. By accessing the Internet, users obtain access to Google, Facebook, Snapchat, Instagram, etc. David NOEL used his computer laptop to access his Facebook profile page (profile ID:1623407882) The Facebook profile page contains information about NOEL, his social media connections, personal messages, postings, photos, payment information, email address information and subscriber information. Facebook users have the ability to communicate with other users via direct/personal messaging.

33. Due to the computer laptop access to the Internet, there is reason to believe a forensic analysis of the HP computer laptop will provide further evidence of residency e.g. banking records, credit card receipts, photos uploaded with time and date stamp, utility bill information, cellular phone bills, tax information, etc.

34. NOEL has two previous convictions for sex offenses, including Enticing a Child under 16. On January 18, 2012, in Worcester District Court number 11626146, NOEL was convicted of Enticing a Child Under the Age of 16 for the incident involving the 11-year old girl that occurred on August 8, 2011.

35. Given the previous conviction of Enticing a Child under 16, the risk evaluation information, and information obtained from the recorded interview, this investigator requests the following items be imaged by a Forensic Analyst in order to determine if there is any evidence of ongoing criminal activity while NOEL was residing in an unregistered status in Maine.

Conclusion

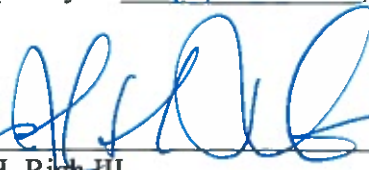
36. Based on the above facts, I believe probable cause exists to believe that contained in the laptop and cellphone seized from David NOEL is evidence of crime, including evidence of failure to register in violation of 18 U.S.C. § 2250(a).

I, Spencer Christie, hereby swear under oath that the information set forth in this affidavit is true and correct to the best of my knowledge, information and belief, and that I make this oath under pains and penalties of perjury.



Spencer Christie
Deputy US Marshal

Subscribed and sworn to before me this 24th day of March, 2017



John H. Rich III
United States Magistrate Judge

Items to be searched

1. Motorola Cellular Telephone Model # XT1650-01
2. HP Laptop Computer, Serial Number 5CD4060GJH

Items to be seized

1. Evidence of crime, including the crime of failure to register, such as evidence of residency, i.e. banking records, credit card receipts, photos uploaded with time and date stamp, utility bill information, cellular phone bills, tax information, etc.